

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF MASSACHUSETTS

ELAINE L. CHAO, Secretary of Labor,
United States Department of Labor,

Plaintiff,
v.

DAVID J. HOWE,
LANDSCAPE DESIGN, INC., and
LANDSCAPE DESIGN, INC. PROFIT
SHARING PLAN,

Defendants

CIVIL ACTION NO. 04-12140MEL

AFFIDAVIT FOR ENTRY OF DEFAULT

I, Ivelisse Berio LeBeau, do hereby declare as follows:

1. I am one of Plaintiff's attorneys of record in the above-captioned action.
2. The Complaint and Summons in this case were served on the Defendants on February 2, 2005. Service was made personally on defendant David J. Howe, as an individual, as President of Defendant Landscape Design, Inc., and as Trustee of Defendant Landscape Design, Inc. Profit Sharing Plan, by Steve Kalil, Constable and Disinterested Person.
3. The Proofs of Service of Complaint and Summons with Affidavits were filed with this Court on February 7, 2005. Copies of the Returns of Service are attached hereto as Exhibit A.
4. The time within which the Defendants may answer or otherwise plead as to the Complaint has expired and has not been further extended.

5. Defendant David J. Howe is not within the classification of infant, incompetent, or in the military service of the United States.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on April 4, 2005.

Ivelisse Berio LeBeau
Ivelisse Berio LeBeau
Attorney
U.S. Department of Labor
Office of the Solicitor

EXHIBIT A

UNITED STATES DISTRICT COURT

COPY

District of Massachusetts

FILED

IN CLERKS OFFICE

ELAINE CHAO, Secretary of Labor,
U.S. Department of Labor

V.

David J. Howe, Landscape Design, Inc.
and Landscape Design, Inc. Profit Sharing
Plan

SUMMONS IN A CIVIL ACTION

U.S. DISTRICT COURT
DISTRICT OF MASS.

CASE NUMBER:

04-12140 MEL

TO: (Name and address of Defendant)

David J. Howe
12 Stewart Street
Sudbury, Massachusetts 01776

YOU ARE HEREBY SUMMONED and required to serve on PLAINTIFF'S ATTORNEY (name and address)

Attorney Ivelisse Berio Lebeau
Office of the Regional Solicitor
JFK Federal Building - Room E-375
Boston, Massachusetts 02203

an answer to the complaint which is served on you with this summons, within 30 days after service of this summons on you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. Any answer that you serve on the parties to this action must be filed with the Clerk of this Court within a reasonable period of time after service.

TONY ANASTAS

CLERK

(By) DEPUTY CLERK



MAY 12 2005

RETURN OF SERVICE

Service of the Summons and complaint was made by me ⁽¹⁾ NAME OF SERVER (PRINT) Steve Kalil	DATE February 2nd, 2005 TITLE Constable and Disinterested Person
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Check one box below to indicate appropriate method of service

Served personally upon the defendant. Place where served: 22 Union Avenue, Ste. 9, in said Sudbury, Massachusetts.

Left copies thereof at the defendant's dwelling house or usual place of abode with a person of suitable age and discretion then residing therein.

Name of person with whom the summons and complaint were left:

Returned unexecuted:

Other (specify):

STATEMENT OF SERVICE FEES

TRAVEL \$15.00***	SERVICES \$35.00***	TOTAL \$0.00
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DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Return of Service and Statement of Service Fees is true and correct.

Executed on February 2nd, 2005

Date

Signature of Server

Steve Kalil, Constable and Disinterested Person

47 Harvard Street, Worcester, MA 01609

Address of Server

UNITED STATES DISTRICT COURT

District of Massachusetts

FILED
CLERKS OFFICE

COPY

ELAINE CHAO, Secretary of Labor,
U.S. Department of Labor

V.

David J. Howe, Landscape Design, Inc.
and Landscape Design, Inc. Profit Sharing
Plan

2005 FEB -1 P 2:21

SUMMONS IN A CIVIL ACTION

U.S. DISTRICT COURT

DISTRICT OF MASS.

CASE NUMBER:

04-12140 MEL

TO: (Name and address of Defendant)

Landscape Design, Incorporated
c/o David J. Howe
12 Stewart Street
Sudbury, Massachusetts 01776

YOU ARE HEREBY SUMMONED and required to serve on PLAINTIFF'S ATTORNEY (name and address)

Attorney Ivelisse Berio Lebeau
Office of the Regional Solicitor
JFK Federal Building - Room E-375
Boston, Massachusetts 02203

an answer to the complaint which is served on you with this summons, within 30 days after service of this summons on you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. Any answer that you serve on the parties to this action must be filed with the Clerk of this Court within a reasonable period of time after service.

TONY ANASTAS

CLERK

(By) DEPUTY CLERK



AO 440 (Rev. 8/01) Summons in a Civil Action

RETURN OF SERVICE

Service of the Summons and complaint was made by me ⁽¹⁾	DATE February 2nd, 2005
NAME OF SERVER (PRINT) Steve Kalil	TITLE Constable and Disinterested Person

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Name of person with whom the summons and complaint were left:

Returned unexecuted:

Other (specify):

STATEMENT OF SERVICE FEES

TRAVEL	SERVICES	TOTAL
\$15.00***	\$35.00***	\$0.00

DECLARATION OF SERVER

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Executed on February 2nd, 2005

Date



Signature of Server

Steve Kalil, Constable and Disinterested Person

47 Harvard Street, Worcester, MA 01609

Address of Server

UNITED STATES DISTRICT COURT

District of Massachusetts

COPY

FILED
IN CLERKS OFFICE

ELAINE CHAO, Secretary of Labor,
U.S. Department of Labor

SUMMONS IN A CIVIL ACTION
1005 FEB - 1 P 2-21

v.

David J. Howe, Landscape Design, Inc.
and Landscape Design, Inc. Profit Sharing
Plan

U.S. DISTRICT COURT
DISTRICT OF MASS.

CASE NUMBER:

04-12140 MEL

TO: (Name and address of Defendant)

Landscape Design, Incorporated
Profit Sharing Plan
c/o David J. Howe
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Sudbury, Massachusetts 01776

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Attorney Ivelisse Berio Lebeau
Office of the Regional Solicitor
JFK Federal Building - Room E-375
Boston, Massachusetts 02203

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TONY ANASTAS

CLERK

(By) DEPUTY CLERK



RETURN OF SERVICE

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NAME OF SERVER (PRINT)	TITLE	
Steve Kalil	Constable and Disinterested Person	

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Name of person with whom the summons and complaint were left:

Returned unexecuted:

Other (specify):

STATEMENT OF SERVICE FEES

TRAVEL	SERVICES	TOTAL
\$15.00***	\$35.00***	\$50.00

DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Return of Service and Statement of Service Fees is true and correct.

Executed on February 2nd, 2005

Date

Signature of Server

Steve Kalil, Constable and Disinterested Person

47 Harvard Street, Worcester, MA 01609

Address of Server

(1) As to who may serve a summons see Rule 4 of the Federal Rules of Civil Procedure.